

REMARKS

The Official Action of July 27, 2004, and the prior art cited and relied upon therein have been carefully studied. The claims in the application are now claims 14-28, and these claims define patentable subject matter warranting their allowance. Favorable reconsideration and such allowance are respectfully urged.

Claims 1-13 have been canceled in favor of new claims 14-28. New independent claims 27 and 28 correspond, respectively, to claims 1 and 10 with the limitation of allowable claim 2 included. Accordingly, Applicant respectfully submits that claims 27 and 28 are now allowable.

With regard to the objections raised in paragraph 1, 2 and 3 regarding the dependencies of claims 7, 9, 10 and 13, Applicant has canceled claims 1-13 in favor of new claims 14-28 which have been drafted to eliminate the dependency problem identified by the Examiner. Applicant respectfully submits that these objections have now been overcome.

In paragraph 5, the Examiner rejected claims 1 and 10-12 under 35 U.S.C. § 102(b) as being anticipated by Mogi et al. (5,505,202). Although Mogi et al. teaches an electrocardiographic-wave measuring apparatus having a foldable

structure, it is not suitable for a 12-lead ECG. Indeed, only two measuring electrodes identified as 3 and 6 are shown in the figures and referred to in the description. The problem to which the present invention is directed is to provide an electrode assembly that is suitable for patient use and allows for simple and reliable measurement of a 12-lead ECG. To this end, the chest electrodes (V1, V2, V3, V4, V5 and V6) must be supported in such a manner that, when the electrode assembly, is opened out, these electrodes may be directly placed by the patient against his chest so that they directly and simultaneously contact the correct regions of his or her chest. It is thus apparent that such a problem cannot possibly be relevant, at least in so acute a form, in a simple 2-electrode assembly. New independent claims 14 and 23 have been drafted to state that the signaling device for which the electrode assembly of claim 14 is intended is a portable 12-lead ECG signaling device. It is respectfully submitted that this limitation patentably distinguishes over Mogi et al.

In paragraph 6, the Examiner rejected claims 1, 4-5 and 10 under 35 U.S.C. § 102(b) as being anticipated by Gadsby et al. (5,341,806). Gadsby et al. teaches an ECG strip electrode for measuring a 12-lead ECG. Such a strip electrode does not open out to form a substantially flat base that is placeable against the patient's chest so that the chest

electrodes (V1, V2, V3, V4, V5 and V6) that are in proper spaced relationship for producing electrical contact with respective areas of a patient's chest simultaneously contact the respective areas of the patient's chest without requiring adjustment or calibration. To the contrary, as stated for example in col. 5, line 42, the strip is shaped so as to form a region of extensibility 30 as shown in Figs. 4-7 and comprise a tri-fold, triangular shaped section formed by three transverse folds. As further stated at col. 10, lines 4-21, when used for a 12-lead ECG measurement, the regions of extensibility afforded by the triangular shaped sections allow selective and adjustable spacing of the electrodes on the patient's body. It is thus quite clear that such a construction is beyond the competence of the average patient to place properly.

New independent claims 14 and 23 have been drafted to state that the foldable sections open out to form a substantially flat base that is placeable against the patient's chest so that those of said electrodes that are in proper spaced relationship for producing electrical contact with respective areas of a patient's chest simultaneously contact the respective areas of the patient's chest without requiring adjustment or calibration. These limitations are believed to be patentably distinguished over Gadsby et al. where the foldable sections do not open out to form a substantially

flat base that supports the chest electrodes (V1, V2, V3, V4, V5 and V6) in proper spaced relationship for producing electrical contact with respective areas of a patient's chest simultaneously. Rather it appears to be necessary to twist the strip as shown in Figs.14 and 19, for example, in order to align the electrodes. Moreover, in Gadsby et al., as noted above, adjustment is required after placing the strip so that the appropriate electrodes are properly aligned.

In paragraph 7, the Examiner rejected claims 1, and 6-10 under 35 U.S.C. § 102(e) as being anticipated by McFee (6,115,623).

McFee teaches a 12-lead ECG electrode assembly. However, his principal objective is to allow a medical practitioner to use a common assembly that is inherently suitable for all patients and to calibrate it for use with a specific patient so that, once the electrodes have been initially calibrated for the specific patient, the thus calibrate electrode assembly can then be used repeatedly with the specific patient without the need for further calibration [col. 3, lines 17-23; col. 5, lines 4-24 etc.]

It is particularly noteworthy from col. 5, lines 4-24 that the initial calibration must be performed by a

technician - and is thus certainly not suitable for ambulatory patient use.

New independent claims 14 and 23 have been drafted to state that the foldable sections open out to form a substantially flat base that is placeable against the patient's chest so that those of said electrodes that are in proper spaced relationship for producing electrical contact with respective areas of a patient's chest simultaneously contact the respective areas of the patient's chest without requiring adjustment or calibration. It is thus clear that the amended claims are patentably distinguished over McFee.

The dependent claims are considered allowable as being dependent on base claims that are allowable for the above reasons.

Acknowledgement by the PTO of the receipt of applicants' papers filed under Section 119 is noted.

The prior art documents made of record and not relied upon have been noted along with the implication that such documents are deemed by the PTO to be insufficiently pertinent to warrant their applications against any of applicant's claims.


Appln. No. 10/069,361
Amdt. dated October 27, 2004
Reply to Office Action of July 27, 2004

Favorable reconsideration and allowance are
earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By


Norman J. Latker
Registration No. 19,963

NJL:ma
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\bn\c\cohn\alroy2\pTO\Amendment-A.doc